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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the Application of

KILGER et al.

Application No.: 09/755,088

Filed: January 8, 2001



Confirmation No.: 6923

Art Unit: 1637

Examiner: Kenneth R. Horlick

Attorney Dkt. No.: 101614-00009

For: METHOD FOR THE UNCOUPLED, DIRECT, EXPONENTIAL AMPLIFICATION AND SEQUENCING OF DNA MOLECULES WITH THE ADDITION OF A SECOND THERMOSTABLE DNA POLYMERASE AND ITS APPLICATION

SUBMISSION OF TERMINAL DISCLAIMER

Commissioner for Patents
Washington, D. C. 20231

Date: September 20, 2002

Sir:

Submitted herewith for filing in the above-identified application, is a Terminal Disclaimer.

Enclosed is a check in the amount of One Thousand Thirty Dollars (\$1,030.00), which includes the One Hundred Ten Dollars (\$110.00) to cover the cost of the fee. In the event that this check is found to be insufficient, or if any additional fees are due with respect to the filing of this paper, please charge Deposit Account Number 01-2300, referencing Docket No. 101614-00009.

Respectfully submitted,

By: King L. Wong
King L. Wong
Reg. No. 37,500

Customer No. 004372
ARENT FOX KINTNER PLOTKIN & KAHN, PLLC
1050 Connecticut Ave, N.W., Suite 400
Washington, DC 20036-5339
Telephone (202) 857-6000
Facsimile (202) 638-4810
KLW:elp
Enclosure: Terminal Disclaimer; Check No.
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Confirmation No.: 6923

PAABO et al.

Art Unit: 1637

Serial No.: 09/755,088

Examiner: K. Horlick

Filed: January 8, 2001

Attorney Docket No. 101614-00009

For: METHOD FOR THE UNCOUPLED, DIRECT, EXPONENTIAL AMPLIFICATION
AND SEQUENCING OF DNA MOLECULES WITH THE ADDITION OF A SECOND
THERMOSTABLE DNA POLYMERASE AND ITS APPLICATION

TERMINAL DISCLAIMER UNDER 37 CFR 1.321

Assistant Commissioner for Patents
Washington, D. C. 20231

Sir:

Petitioner, ROCHE DIAGNOSTICS GmbH, having its place of business at Sandhofer Strasse 116, D-68305 Mannheim, Federal Republic of Germany, represents that it is the assignee and owner of all right, title and interest in and to U. S. Patent Application Serial No. 09/755,088, filed January 8, 2001, for *Method for the Uncoupled, Direct, Exponential Amplification and Sequencing of DNA Molecules with the Addition of a Second Thermostable DNA Polymerase and its Application*, the assignment for the application being recorded in the Patent and Trademark Office on May 22, 1998 at Reel 09337, Frame 0391-2 and a change of name recorded May 28, 1999. Petitioner is also the assignee of all right, title, and interest in and to U. S. Patent No. 6,225,092 B1, filed

December 16, 1997, for *Method for the Uncoupled, Direct, Exponential Amplification and Sequence of DNA Molecules with the Addition of a Second Thermostable DNA Polymerase and its Application* the assignment for this application being recorded in the Patent and Trademark Office on May 22, 1998 at Reel 09337, Frame 0391-2.

Petitioner hereby disclaims the terminal part, if any, of any patent granted on application Serial No. 09/755,088, which would extend beyond the expiration date of patent No. 6,225,092 B1, and hereby agrees that any patent so granted on application Serial No. 09/755,088, shall be enforceable only during such period that the legal title to such patent shall be the same as the legal title to patent No. 6,225,092 B1, this agreement to run with any patent granted on application Serial No. 09/755,088, and to be binding on its grantee, its successors, or assigns.

Petitioner does not disclaim any terminal part of any patent granted on the above-identified application prior to the expiration date of the full statutory term as presently shortened by any terminal disclaimer of patent No. 6,225,092 B1 in the event that it later: expires for failure to pay a maintenance fee, is held unenforceable, is found invalid, is statutorily disclaimed in whole or terminally disclaimed under 37 C.F.R. 1.321(a), has all claims cancelled by a reexamination certificate, or is otherwise terminated prior to the expiration of its statutory term as presently shortened by any terminal disclaimer, except for the separation of legal title stated above.

The undersigned on behalf of petitioner, ROCHE DIAGNOSTICS GmbH, hereby states and declares that I have the authority to execute this Terminal Disclaimer on behalf of the petitioner.

I hereby declare that all statements made herein of my own knowledge are true, and that all statements made on information and belief are believed to be true; and further that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine and/or imprisonment under Section 1001 of Title 18 of the United States Code, and that such willful false statements may jeopardize the validity of the application or any patent issuing therefrom.

Respectfully submitted,

ROCHE DIAGNOSTICS GmbH

ppa.

i.v.

Dr. Schreiner

Dr. Hildebrandt

Title: _____

Date: September 19, 2002